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C O N F I D E N T I A L BAGHDAD 000432

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E.O. 12958: DECL: 02/17/2020
TAGS: [PGOV](#) [IZ](#)
SUBJECT: BARRED CANDIDATE DETERMINED THAT SUNNIS
PARTICIPATE AND PREVAIL

Classified By: Political Counselor Yuri Kim for reasons 1.4 (b) and (d)

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¶1. (C) SUMMARY: Saleh al-Mutlaq and Dhafer al-Ani, the most prominent of the de-Ba'athified lawmakers, told PolCouns that Sunnis were angry and frustrated at the lack of transparency in the de-Ba'athification process. Mutlaq complained that the U.S. public response had been too weak and pressed for the United States to publicly denounce the de-Ba'athification process and encourage a "political solution" to address his disbarment. He was prepared to pursue all available legal avenues, but believed there was no point in doing so without political consensus to provide topcover for the judiciary. His personal tribulations aside, Mutlaq repeatedly made clear that it was critical for Sunnis to participate and prevail in the election and affirmed that he would continue to encourage Sunnis to go to the polls on March 7. END SUMMARY.

¶2. (C) Saleh al-Mutlaq and Dhafer al-Ani, the Sunni lawmaker sat the center of the de-Ba'athification controversy, told PolCouns February 16 that Sunnis were angered and frustrated by the actions that had barred them and other secular candidates from the upcoming election. Mutlaq feared that attacks against the Iraqiyya coalition's candidates would continue to escalate. Sunnis were disillusioned to find that, having now chosen to participate in the political process rather than boycott as they had in 2005, they were being excluded in a blatantly illegitimate fashion. "If we are excluded in this way, how can we believe in the process?" he asked.

¶3. (C) Asked to describe their experience of the de-Ba'athification process, Mutlaq and Ani both said they had first learned of their disqualification from the media. (NOTE: Baghdad 422 reports on the de-Ba'athification process. END NOTE.) Two weeks later, Independent High Electoral Commission (IHEC) notified respective parties, but not individuals, of the candidates on their list who had been marked for de-Ba'athification, noting that parties had the option of voluntarily replacing these candidates on their lists. Mutlaq and Ani also said they requested multiple times through multiple channels to see the AJC's evidence against them, but that their requests went unanswered. In response to a letter sent to IHEC asking to review the documents supporting his exclusion, Mutlaq was told he would only see the evidence used in the Cassation Chamber decision on his appeal -- this never happened, however. He said his first attorney resigned following threats against him. "He brought back the bag of money, said 'I can't do this anymore' and just left," Mutlaq said. Mutlaq added that Council of Representatives (COR) Accountability and Justice Commission (AJC) Committee member Falah Shanshal had informally showed him the most damaging evidence against him, a letter from Deputy COR Speaker Arif Tayfor. "It was all false, but I never had a chance to officially fight back," Mutlaq said. Mutlaq and Ani each said he never received a copy of the judicial decision of their appeal.

¶4. (C) Mutlaq noted to Poloffs that while his Iraqiyya

coalition enjoyed strong public support, and that its supporters believed the coalition could win. The AJC action had shaken that belief and weakened the confidence of Sunni voters in the political process. He was unsure how they would respond now and believed there would be a negative impact on participation in the elections. He further claimed his party was getting threats, first from al-Qaeda and now from other groups. (NOTE: Mutlaq promised to provide details of from other groups. (NOTE: Mutlaq promised to provide details later; we have not yet received any further information. END NOTE.)

¶ 15. (C) Despite his sharp criticism and laments, Mutlaq asserted his purpose was larger than winning a COR seat, stressing that it was critical for "us" to win. He acknowledged that "if the people don't vote, we will have a problem." He did not want Iraqis to think that taking up arms was the only way to object to express opposition. He recounted a meeting with Anbar tribal leaders the previous day at which they collectively said they would not vote. Following a lengthy discussion of the benefits and risks of boycotting the elections, Mutlaq said he had convinced two-thirds of them that voting was the better option.

¶ 16. (C) Mutlaq blamed the United States for "failing" to speak out against the de-Ba'athification process. "We need you to speak strongly about this matter; to fail to do so will lead to a continuation of illegal acts against political figures and ultimately will lead to a violent Iraq." Mutlaq contended that U.S. statements that the election was up to the Iraqi people were being misconstrued as U.S. apathy.

¶ 17. (C) PolCouns underscored strong U.S. interest and determination to see a credible and legitimate election on March 7. Essential to this would be transparency, inclusiveness, and adherence to the rule of law. We would continue to work closely with all parties, including his. PolCouns encouraged Mutlaq to continue to call for full participation by all voters, noting that the party with the highest voter turnout would inevitably become a force with which to contend.

Political consensus is the key

¶ 18. (C) Mutlaq said Speaker Samarrai'e had sent a letter to Federal Supreme Court (FSC) Judge Medhat Mahmoud the previous day stating that the Cassation Chamber decision had been unconstitutional because the accused candidates had never had an opportunity to defend themselves against the evidence. The letter from Samarrai'e could offer a possible legal way forward, but, Mutlaq said, a legal way forward would not be possible in the absence of political consensus. Mutlaq said he was considering an appeal to the FSC but would not do so without a political agreement to provide cover. He also said PM Maliki had the power to reinstate candidates, with COR approval, which necessarily meant the action would have to have broad political agreement. In short, he said, he was prepared to take all available legal roads but did not believe they would lead anywhere without clear political consensus to clear the path.

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